

USDC/MA
Stearns, R.

**United States Court of Appeals
For the First Circuit**

MANDATE

No. 05-1114

JOHN DIOSA,

Petitioner, Appellant,

v.

BRUCE CHADBOURNE,

Respondent, Appellee.

Before

Boudin, Chief Judge,
Stahl, Senior Circuit Judge,
and Lynch, Circuit Judge.

JUDGMENT

Entered: October 3, 2005

Habeas petitioner John Diosa has appealed from the January 19, 2005 order of the U.S. District Court for the District of Massachusetts (Stearns, J.) dismissing, for lack of jurisdiction, his request for a stay of removal pending the Board of Immigration Appeals ("BIA")'s adjudication of his December 23, 2004 motion to reopen his immigration proceedings and transferring the case to the Western District of Louisiana.

Since Diosa's December 23, 2004 motion to reopen is no longer pending before the BIA, Diosa's appeal from the district court's January 19, 2005 order is dismissed as moot. We need not decide whether the district court erred in deciding that it no longer had jurisdiction once Diosa was transferred to the Western District of Louisiana. Nor do we need to decide whether the district court erred in concluding that the issues raised by Diosa "could have and should have been raised" in a prior proceeding.

The appeal is DISMISSED as moot.

**Certified and Issued as Mandate
under Fed. R. App. P. 41.**

Richard Cushing Donovan, Clerk

George Kretsch
Deputy Clerk

Date: 11/05/05

By the Court:

Richard Cushing Donovan, Clerk.

MARGARET CARTER

By: _____
Chief Deputy Clerk.

[cc: Jeff Ross, Esq., Neil Cashman, Esq., Ernesto H. Molina, Esq., Nora Livers, Paralegal, David V. Bernal, Esq.]